Associated Press v. United States Department of Defense

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ASSOCIATED PRESS,

Plaintiff,

-v-

UNITED STATES DEPARTMENT OF DEFENSE,

Defendant.

-- x

05 Civ. 3941 (JSR)

ORDER

JED S. RAKOFF, U.S.D.J.

Earlier today, on September 1, 2005, the Government telephonically notified Chambers that it intended to move for reconsideration of this Court's Memorandum Order dated August 29, 2005, and, in that connection, was seeking a stay of the implementation of that Order. After hearing from counsel for the parties in a joint telephone conference, the Court set a schedule for the reconsideration motion but, with one qualification, denied the stay. This Order will reconfirm those rulings.

As to the motion for reconsideration, the Court adopts the schedule proposed by the parties, i.e., moving papers to be filed by September 9, 2005, answering papers by September 15, 2005, and reply papers by September 16, 2005. Courtesy copies of all these papers should be faxed directly to Chambers.

As to the stay, the modest effort required of the Government to draft and submit to the Court by September 2, 2005 (i.e. tomorrow) a proposed form for the simple one-page questionnaire contemplated by the August 29 Memorandum Order is not sufficient to warrant a stay, particularly in view of the showing made by plaintiff that it may

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well suffer prejudice from any further delay in its access to the information it requested many months ago. On the other hand, it would be unfair to the Government for this Court to order it to submit any final questionnaire to the detainees before the Court ruled on the motion for reconsideration. Accordingly, the stay is denied except that the Court, rather than approving a final form of the questionnaire on September 12, 2005, as the August 29 Memorandum Order contemplated, will not approve a final form of the questionnaire unless and until the Court has first denied the motion for reconsideration. The Court will undertake, however, to decide the motion for reconsideration by no later than September 20, 2005, and, if it denies the motion, to then approve a final form of the questionnaire by no later than September 23, 2005.

SO ORDERED.

JED S. RAKOFF, U.S.D.J.

Dated: New York, New York
September 1, 2005